

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Ricky Deal,

Case No. 3:14 cv 393

Plaintiff

v.

MEMORANDUM OPINION
AND ORDER

Alan J. Lazaroff,

Defendant

This matter comes before me on the Report and Recommendation of the Magistrate Judge filed on January 23, 2015 (Doc. No. 6) in the above-entitled action.

Under the relevant statute:

Within fourteen (14) days after being served a copy of these proposed Findings and Recommendation, any party who wishes to object must file and serve written objections or further appeal is waived.

United States v. Campbell, 261 F.3d 628, 631-32 (6th Cir. 2001) (citation omitted); *see also* Fed. R. Civ. P. 72(b); 28 U.S.C.A. § 636(b)(1). The failure to file written objections to the Magistrate Judge's report and recommendation constitutes a waiver of a determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see also* *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

In this case, the fourteen day period has elapsed and the record reflects the Petitioner did not oppose the Respondent's motion to dismiss, nor did he file objections on the docket to the Report and Recommendation.

Following review of the Magistrate Judge's Report and Recommendation, the Court adopts the Report and Recommendation in its entirety as the Order of the Court. Respondent's motion to dismiss (Doc. No. 5) is granted.

Furthermore, I have determined *sua sponte* that a certificate of appealability should not issue in this case as an appeal of this decision could not be taken in good faith and no grounds exist upon which to grant such relief.

Accordingly, the Petition for Writ of Habeas Corpus (Doc. No. 1) is dismissed with prejudice. Under 28 U.S.C. § 1915(a)(2), an appeal of this decision could not be taken in good faith, therefore, there is no basis on which to issue a certificate of appealability. 28 U.S.C. § 2253; Fed. R. App. P. 22(b).

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge